

The Use Tax is a privilege tax imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101. (This is a GIL).

July 22, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated May 31, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Since November of 1998, I have been trying to get a clarification on the State Of Illinois' assertion that I owe the State Use Tax on a purchase made in Italy. As you can see from my first letter from last year, the merchandise in question COULD NOT BE PURCHASED IN ILLINOIS!

Your own Illinois Use Tax pamphlet(PIO-36 R-9/96) explains that the reason for the tax is so that Illinois residents will not be deprived of their rightful taxes. I agree! But, the hand blown glassware I purchased is NOT available in the State of Illinois, so the state could NEVER have collected sales tax on it, and so HAS NOT BEEN DEPRIVED!

I would appreciate it very much if someone would contact me and explain this demand, rather than sending notices with no explanations.

Please be advised that the Use Tax is a privilege tax imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See the enclosed copy of 86 Ill. Adm. Code 150.101. "Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property. See 86 Ill. Adm. Code 150.201, enclosed. Such a use applies to items purchased out of State and out of the country as well as items purchased from mail-order companies. The availability of the item for purchase in Illinois has no relevance in ascertaining the tax due. Rather, the tax is based solely upon your use of the item in this State. Since you have used this item here, tax is due.

In your situation, any purchase of an item that you have made outside of Illinois is subject to Illinois Use Tax based upon its purchase. When a retailer located in another state and, for that matter, a retailer located in a foreign county are not obligated to collect Illinois Use Tax on their sales of items, you are liable for Use Tax on the purchase price of those items. Although Illinois

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law provides for a Use Tax credit for taxes paid to another state, there is no credit provision for taxes paid to a foreign country. See the enclosed copy of 86 Ill. Adm. Code 150.310(a)(3).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte  
Associate Counsel

GR:msk

Enc.